IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.329 OF 1999

The Commissioner of Income-tax,
Bombay City - I, Bombay .. Applicant.
V/s.
The G.I. Hotels Limited .. Respondent.

Mr.Ashok Kotangale with Mr.Parag Vyas
for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal was right in law in upholding the finding of the CIT(A) that provisions of sec. 40(c) instead of sec.40-A(5) are applicable in the case of employee-directors for the purpose of computation of disallowance out of remuneration and perquisites ?
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> 2. For the facts and in the circumstances of the case, whether the Tribunal was right in law in upholding the order of the CIT(A) holding that depreciation on the building should be allowed without deduction the amount of Central Subsidy received ?

2. As regards question No.1, the learned counsel for the Revenue fairly states that the issue has already been answered by the Division Bench of this

Court in the case of **CIT V/s. Hico Products P Ltd. [(1993) 201 ITR 567 (Bom)]** in favour of the assessee and against the revenue.

3. So far as question No.2 is concerned, the learned counsel for the Revenue fairly states that the issue raised has already been answered by the Apex Court in the case of **CIT V/s. P.J. Chemicals Ltd. [(1994) 210 ITR 830]** in favour of the assessee against the revenue.

4. In this view of the matter, both the questions stand answered in affirmative for the reasons stated in the cases cited supra.

5. Reference, accordingly, stands disposed of with no order as to costs.

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